

Remarks

Applicant has amended claims 1, 2, 4-7 and 24-25; cancelled claims 3,8, 26, 28-29 and 31; and added new claims 32-37. Applicant respectfully submits that no new matter was added by the amendment, as all of the amended matter was either previously illustrated or described in the drawings, written specification and/or claims of the present application. (See, Pars. 30, 43 and 69-72). Entry of the amendment and favorable consideration thereof is earnestly requested.

Claims 1, 24 and 32

As amended claims 1, 24 and 32 recite that “a plurality of fuel dealer computers access the computer [server], each fuel dealer having a plurality of customer accounts to whom they supply fuel, each fuel dealer accessing the computer [server] via the authorization software and administering customer accounts via the administrative software.” In addition, claims 1, 24 and 32 require a wireless communication link coupling the measurer [monitoring device] and the communicator and that a customer is permitted to view the storage level of a fuel at the customer’s storage location.

The Examiner has rejected claims 1 and 24 over U.S. Patent No. 6,341,271 (Salvo et al.) in view of 5,983,198 (Mowery et al.).

As amended, claims 1 and 24, and new claim 32 are directed toward a computer system that facilitates determining/allowing a plurality of fuel dealers to access a computer system (central server) to manage the accounts of their fuel customers. To facilitate this, an authorization software module is provided that only allows a particular authorized fuel dealer to access and administer the accounts of their own customers. Neither Salvo et al. nor Mowery et al. teach or suggest these limitations. For example, Mowery et al. “relates to an integrated system monitoring use of materials stored in tanks, controlling and monitoring delivery of materials to the tanks, and providing auto-

mated billing of delivered materials through communications between the tanks, a central station, and delivery trucks." (Col. 1, Ins. 11-15.) Rather than being an internal system (i.e. a system used by only one company) to control the distribution of the company's product to various locations, the presently claimed system is directed toward a management system that may be used by a plurality of non-associated fuel dealers to manage their own particular customer accounts to whom they supply fuel. Mowery et al. on the other hand, merely describes use of "a central station" (i.e. a single supplier) for distribution of fuel and makes absolutely no mention of many different fuel dealers or suppliers administering their specific client accounts. This is not an insubstantial difference as specific structural elements are claimed in claimed 1, 24 and 32 to accomplish this functionality that are not found in any of the cited prior art. For example, all the pending claims recite the use of "authorization software" that allows restricted access to the fuel dealers customer accounts and limited access by a customer to their own account information. In contrast, there is no reason to provide this type of functionality in Mowery et al. because Mowery et al. is not directed toward a system that allows a plurality of dealers to gain access to their customer accounts. Rather, it teaches that only one supplier accesses the system.

Applicant respectfully submits that neither Mowery et al. nor Salvo et al. teach or suggest allowing a plurality of fuel dealers to access their customer accounts. In the presently claimed invention, it would be highly undesirable for the system to allow unauthorized personnel (e.g. competing fuel dealers) to obtain customer account information of their competitors. Accordingly, it is necessary to provide the authorization software to allow authorized dealers to only access their own customer account information as recited in all the pending claims.

As the rejections of pending claims are based on a combination of Salvo et al. and Mowery et al., the teachings of both references must be considered when formulating an obviousness rejection as it is inappropriate to use the pending claims as a road-map to select various features from the cited art without regard to what the references

teach as a whole. See *W.L. Gore and Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-13, (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984); *In re Arkley*, 455 F.2d 586, 587-88, 172 U.S.P.Q. 524, 526 (C.C.P.A. 1972) (when considering a reference, the reference must be considered for its teachings as a whole.) In the present case, it has been stated that in “response to applicant’s argument that Salvo is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.” (Official Action 3/8/07, p. 3) To clarify Applicant’s previous remarks, Applicant was submitting that Salvo et al. teaches an inventory management system in which all decisions concerning whether an order should be placed are based upon an analysis of what is best (i.e., least expensive) for the customer. This is a primary teaching of Salvo et al. However, this concept teaches away from the system described in the presently pending claims, which links particular customers with particular fuel suppliers and limits access accordingly.

Applicant noted that it appeared that the teachings of Salvo et al. were discarded in favor of the teachings in Mowery et al., not based on a motivation found in the cited art, but based on the pending claims. Accordingly, Applicant respectfully submits that Salvo et al. teaches away from the suggested combination and modification with Mowery et al. suggested by the Examiner. MPEP 2143.01; *In re Gordon*, 733 F.2d 900, 221 USPQ2d 1125 (Fed. Cir. 1984) (If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.) In this case, a system would be provided that includes a customer account that looks for the least expensive product among a variety of suppliers would be generated as taught in Salvo et al.

Applicant further respectfully submits that as amended, all the claims require a wireless communication link. The Examiner has submitted that “the examiner takes official notice that it is notoriously old and well known in the art use wireless communica-

tion between a user and a server . . . It would have been obvious . . . to modify the apparatus of Salvo by using wireless communication in order to allow for portability of the user and to allow for communication in areas where internet access is poor.” (Official Action 4/7/06, p. 6) Applicant respectfully submits that while the Examiner has submitted wireless communication is known, claim 1 specifically recites “a communicator wirelessly coupled to the data processor, the communicator transmitting the measurement signal to the computer via a communications network”; claim24 specifically recites “a communicator wirelessly coupled to said fuel level monitoring device receiving the fuel level data via the wireless link”; and claim 32 specifically recites “a communicator wirelessly coupled to said measurer and receiving the fuel signal.” Applicant respectfully submits that none of the cited prior art teaches, discloses or suggests these limitations.

As amended claims 1 recites that “an authorization software module for securing the system such that authorized fuel dealers are allowed access to their customer account information and a customer is permitted to view the storage level of a fuel at the customer’s storage location”; claim24 recites “an administrative software module facilitating the creation and administration of customer accounts and a customer is permitted to view the storage level of a fuel at the customer’s storage location”; and claim 32 recites “an authorization software module allowing a fuel dealer to access customer accounts associated with the fuel dealer, said authorization software allowing a customer to access information relating to the customer’s fuel level.”

Neither Mowery et al. nor Salvo et al. provide for a plurality of fuel dealers to access their customer information and for a customer to log on and check their account information that is associated with a particular fuel dealer. Accordingly, even if one were to combine the references as suggested by the Examiner, one would not arrive at the presently claimed invention. Applicant further respectfully submits that neither reference teaches that such a modification would be advantageous. For example, Mowery et al. teaches a system that is used by a single distributor to supply a number of locations, but there is no teaching that a plurality of dealers can access their own customer

information or that their particular customers can access their own information. This is a primary purpose of the authorization software module, which allows a particular fuel dealer to access his customer's information and the customer to access their own information. The system taught in Mowery et al. simply can not perform this type of functionality without significant modification. Likewise, Salvo et al. teaches an inventory management system in which all decisions concerning whether an order should be placed are based upon an analysis of what is least expensive for the customer. There is no provision for a particular fuel dealer to access their customer information or for the customer to access their own information via authorization software module as required by all of the pending claims.

It is respectfully submitted that claims 1-2, 4-7, 9-10, 24-25, 27, 30 and 32-37, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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